

REMARKS

Claim Status

Claim 17 has been amended to recite that the slow dissolving tablet of halogen dioxide salt comprises a dissolution control agent; Claim 20 (New) recites such agents. Basis is at page 7, lines 18-20. Entry of the amendment and Claim 20 is requested.

Formal Matters

For the record, no objections or rejections under 35 USC 112 are outstanding.

Rejections under 35 USC 103

Claim 17 stands rejected over US 6,632,347 in view of US 5,106,465, and further in view of US 4,542,008, for reasons of record at pages 3-4 of the Office Action.

Claim 17 also stands rejected over US 6,306,281 in view of '008 and further in view of '347 and further in view of '465, for reasons of record at pages 6-10 of the Office Action.

Applicants respectfully traverse all rejections, to the extent they may apply to Claim 17, as now amended, and to new Claim 20.

At the outset, it is contended that the '465 and '347 patents are not properly combinable to support these rejections under §103.

US 5,106,465 employs an electrochemical cell having at least one ion exchange compartment between the anode compartment and the cathode compartment. (Column 3, line 16.) The object of this technology is to, “. . . produce aqueous solutions of chlorine dioxide . . . which are chlorine-free.” (Column 2, lines 65-69; emphasis supplied.)

In sharp contrast to '465, the electrochemical cell of US 6,632,347 is operated in such fashion as to, “. . . produce an output solution having a predetermined level of available free chlorine . . .” (Column 3, lines 49-51; see also column 3, lines 66-67, column 4, lines 4 and 13 and Claim 1; emphasis supplied.)

In short, the designs, feedstocks and operating conditions of the cell of '465 are chosen to achieve an effect (chlorine-free solutions) that is entirely different from '347

(chlorine-containing solutions). Accordingly, and under the provisions of MPEP 2145 X.D.2., it is submitted that '465/'347 are not combinable since their teachings are directly opposite.

However, even assuming *arguendo* that '465 and '347 were to be combinable under §103, their combination with '008 still does not support a *prima facie* case of obviousness. In point of fact, these patents do not teach or suggest the **“slow dissolving tablet of halogen dioxide salt comprising a mixture of said halogen dioxide salt and a dissolution control agent”**. That is a required limitation of Claim 17, as now amended. Accordingly, under MPEP 2142 and *In re Vaeck*, 947F.2d 488 (Fed Cir. 1991), the rejection on this basis cannot stand. Reconsideration and withdrawal of the rejection of Claim 17 is requested.

It is noted for the record that the self-same arguments and law apply to new Claim 20, since none of the cited patents relates to tablets comprising the listed dissolution control agents.

With regard to the '281 patent, it is again noted that nothing therein relates to the use of a controlled release tablet in '281's apparatus or process. While the Examiner cites MPEP 2114 [R-1] in support of the rejection, it is submitted that this is inapposite in the present instance. Claim 17, as written, does not merely recite “the manner in which a claimed apparatus is intended to be employed.” Instead, it specifies the “slow dissolving tablet comprising etc.” as one of the defining elements of the system, itself.

The above discussion regarding the other cited documents applies equally to this rejection. Simply stated, the combination of '281 with any, or all, of '008 and/or '347 and/or '465 does not teach all elements of the present invention. Since no *prima facie* case of obviousness has been made, withdrawal of the rejection on this basis is requested.


Again, the same comments apply with regard to new Claim 20.

In light of the foregoing, early and favorable action on Claim 17, amended, and new Claim 20 is requested.

Respectfully submitted,

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